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Natalie M. Cox

Honorable Natalie M. Cox
United States Bankruptcy Judge



5 Entered on Docket
January 30, 2023

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Agent and Collateral Agent for certain
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22 UNITED STATES BANKRUPTCY COURT

23 DISTRICT OF NEVADA

24 In re:

25 MUSCLEPHARM CORPORATION,

26 Debtor.

27 Case No.: 22-14422-NMC

28 Chapter 11

Date: February 9, 2023

Time: 10:30 a.m.

22 **ORDER APPROVING STIPULATION BETWEEN DEBTOR MUSCLEPHARM**
23 **CORPORATION AND EMPERY REGARDING EXTENSION OF TIME TO**
24 **SUBMIT FINAL OBJECTIONS TO DEBTOR'S EMERGENCY MOTION FOR**
25 **INTERIM AND FINAL ORDERS PURSUANT TO 11 U.S.C. §§ 105, 361, 362, 363**
26 **AND 364 AND FED. R. BANKR. P. 4001(B) AND 4001(D): (I) AUTHORIZING**
27 **THE DEBTOR TO OBTAIN POST-PEITITON FINANCING; (II) GRANTING**
PRIMING LIENS AND ADMINISTRATIVE EXPENSE CLAIMS;
(III) DETERMINING ADEQUATE PROTECTION; (IV) MODIFYING
THE AUTOMATIC STAY; AND (V) GRANTING RELATED RELIEF

1 The Court, having considered the *Stipulation Between Debtor MusclePharm Corporation*
 2 *and Empery Regarding Extension of Time to Submit Final Objections to Debtor's Emergency*
 3 *Motion for Interim and Final Orders Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, and 364 and*
 4 *Fed. R. Bankr. P. 4001(B) and 4001(D): (I) Authorizing the Debtor to Obtain Post-Petition*
 5 *Financing; (II) Granting Priming Liens and Administrative Expense Claims; (III) Determining*
 6 *Adequate Protection; (IV) Modifying the Automatic Stay; and (V) Granting Related Relief* (the
 7 *"Stipulation"*), and good cause appearing therefor:

8 **IT IS HEREBY ORDERED** that the Stipulation attached hereto as Exhibit 1 is approved;

9 **IT IS FURTHER ORDERED** that any final objection by Empery to the final approval of
 10 *Debtor's Emergency Motion for Interim and Final Orders Pursuant to 11 U.S.C. §§ 105, 361, 362,*
 11 *363, and 364 and Fed. R. Bankr. P. 4001(B) and 4001(D): (I) Authorizing the Debtor to Obtain*
 12 *Post-Petition Financing; (II) Granting Priming Liens and Administrative Expense Claims; (III)*
 13 *Determining Adequate Protection; (IV) Modifying the Automatic Stay; and (V) Granting Related*
 14 *Relief* [ECF No. 33] shall be due on or before February 1, 2023; and

15 **IT IS FURTHER ORDERED** that any response by Debtor MusclePharm Corporation to
 16 any final objection by Empery shall be due on or before February 7, 2023.

17 **IT IS SO ORDERED.**

18 **PREPARED AND SUBMITTED BY:**

19 SCHWARTZ LAW, PLLC

20 /s/ Bryan Lindsey
 21 Samuel A. Schwartz, Esq.
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 29 Attorneys for Debtor MusclePharm Corporation

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 28 Agent and Collateral Agent for certain
 29 Secured Noteholders

EXHIBIT 1

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 PURSUANT TO 11 U.S.C. §§ 105, 361, 362, 363 AND 364 AND FED. R. BANKR. P.
 4001(B) AND 4001(D): (I) AUTHORIZING THE DEBTOR TO OBTAIN POST-
 PEITITON FINANCING; (II) GRANTING PRIMING LIENS AND ADMINISTRATIVE
 EXPENSE CLAIMS; (III) DETERMINING ADEQUATE PROTECTION; (IV)
 MODIFYING THE AUTOMATIC STAY; AND (V) GRANTING RELATED RELIEF**

29 Empery Tax Efficient, LP, in its capacity as collateral agent (in such capacity, “Empery”)
 30 of the Secured Noteholders with respect to the Notes¹ and as the interim provider of debtor in
 31 possession financing to MusclePharm Corporation (“Debtor”), and Debtor, by and through their
 32 respective undersigned counsel, hereby submit this stipulation (“Stipulation”) to extend the time
 33 for Empery to file its objection (if any) and Debtor’s corresponding response to final approval of
 34 Debtor’s *Emergency Motion for Interim and Final Orders Pursuant to 11 U.S.C. §§ 105, 361, 362,*
 35

36
 37 ¹ Capitalized undefined terms used herein shall be defined in the Silver Declaration [ECF No. 52].

1 363, and 364 and Fed. R. Bankr. P. 4001(B) and 4001(D): (I) Authorizing the Debtor to Obtain
 2 Post-Petition Financing; (II) Granting Priming Liens and Administrative Expense Claims; (III)
 3 Determining Adequate Protection; (IV) Modifying the Automatic Stay; and (V) Granting Related
 4 Relief [ECF No. 33] (the “Motion”).

5 The Parties hereby stipulate, subject only to entry of an order approving this Stipulation
 6 substantially in the form attached hereto as **Exhibit 1**, as follows:

7 1. On January 3, 2023, Debtor filed the Motion, seeking, among other things, debtor-
 8 in-possession financing from White Winston Select Asset Funds, LLC (“White Winston”) on an
 9 interim and final basis;

10 2. On January 4, 2023, Empery filed an objection to approval of the debtor-in-
 11 possession financing proposed by Debtor and White Winston [ECF No. 51];

12 3. On January 9, 2023, the Court entered its first interim order on the Motion,
 13 approving debtor in possession financing provided by Empery on an interim basis [ECF No. 74];

14 4. On January 12, 2023, Debtor filed a supplement [ECF No. 89] and an amended
 15 supplement [ECF No. 102] to the Motion;

16 5. On January 23, 2023, the Court entered a second interim order approving debtor in
 17 possession financing provided by Empery on an interim basis and set a hearing on final approval
 18 of the Motion for February 9, 2023, at 10:30 a.m. [ECF No. 139];

19 6. Empery understands that its final objection to final approval of the debtor-in-
 20 possession financing is due on or before January 26, 2023 and Debtor understands that its response
 21 to any objections is due on or before February 2, 2023;

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1 7. However, based on scheduling issues and the short turnaround time, Empery and
2 Debtor hereby stipulate and agree that Empery's objection deadline shall be extended to **February**
3 **1, 2023**, and Debtor's response deadline to any objection by Empery shall be extended to
4 **February 7, 2023**, subject to this Court's approval.

5 **IT IS SO STIPULATED.**

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